

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**DURRELL M. HARRIS,**

**Plaintiff,**

v.

**Case No. 23-CV-665**

**ALEX CARLSON, *et al.*,**

**Defendants.**

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**ORDER**

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On July 18, 2023, the court screened *pro se* plaintiff Durrell M. Harris's complaint and allowed him to proceed on several Fourth Amendment claims against the defendants. (ECF No. 10.) On August 28, 2023, Harris moved to amend his complaint to add a claim for the violation of bodily privacy when defendant Alex Carlson had his body camera operating while Harris was nude in the hospital room. (ECF No. 24.) On September 28, 2023, the court denied Harris's motion to amend his complaint, finding that detainees generally do not have a right to privacy when viewing their naked bodies. (ECF No. 28 at 3.)

On October 6, 2023, Harris filed a motion for the court to reconsider its order denying his motion to amend the complaint. (ECF No. 30.) Harris states that he was not a detainee because he was not under arrest. However, at the time, as Harris alleges in his amended complaint, he was in a hospital room and the defendants, who are police officers, were actively searching his possessions and investigating

Harris. At that point, a reasonable person would not consider Harris free to leave. Thus, he was a detainee. *See United States v. Tyler*, 512 F.3d 405, 409-10 (7<sup>th</sup> Cir. 2008) (a person is detained when “in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave”). As such, the court denies his motion.

**THEREFORE, IT IS ORDERED** that Harris’s motion for reconsideration of the court’s order on his motion for leave to amend his complaint (ECF No. 30) is **DENIED**.

Dated at Milwaukee, Wisconsin this 6th day of November, 2023.

BY THE COURT:

  
NANCY JOSEPH

United States Magistrate Judge